

REMARKS

The Office Action dated May 13, 2005, has been reviewed carefully and the application amended in an effort to place the same in condition for allowance. Reconsideration of the prior rejection of Claims 17 through 26 and allowance of the same are respectfully requested on the basis of the following remarks.

CLAIMS 1 – 16

Allowance of Claims 1-16 has been noted with appreciation.

CLAIMS 17 – 26

The present invention provides a unique set of grout color selecting cards which will facilitate a potential customer or user's ability to place grout colors adjacent to one or more "tiles" as defined in the specification, in the position where grout will appear in the final installation. This permits the individual to get a direct viewing through the transparent card of the appearance of one or more grout colors presented in a single card with the underlying color, contour and appearance of the tiles. It also provides a plurality of such cards which have one or more of the first and/or second color bands having a different color to thereby facilitate using different cards in the set to compare different grout colors with the identical tile.

Claim 17, the sole independent claim in this grouping, has been amended by adding the recital that a number of the cards have the color of at least one of the first color band and the second color band different from the colors of other said cards. The whereby clause recites the fact that the plurality of cards thus presented permits a number of different grout colors to be viewed adjacent to tiles.

Claims 17, 18, 22-24 and 26 were rejected under Section 102(b) as being anticipated by Ryan United States Patent 5,666,737. Ryan is directed toward a template for use in constructing

“European style cabinetry”. It contemplates an adhesived back, flexible tape, which may be secured to the workpiece as shown in Figure 4, for example, so as to provide discrete locations for drilling holes for a variety of European-type cabinetry hardware. The specifically spaced indicia such as holes 20, 24 provide for the desired dimensioning and positioning of such items. The cards also contain alignment marks 48 showing precise distances. Further, a “distinct graphic 22” is positioned “exactly 37mm from the edge of the tape” as 37mm is said to be a specific dimension for European hardware. This is said to be a solid line running longitudinally through one or the other of the hole lines 20, 24. Specific edge lines 12, 14 are also provided. First and second indicia bars 46 and 44, which are precisely dimensioned and positioned, are provided.

As stated in the enclosed Page 1191 of Webster’s II New Riverside University Dictionary (Copyright 1984, 1988), a template in a physical sense is said to be a pattern or gauge as a thin metal plate with a cut pattern used as a guide in making something accurately, as in woodworking, or a piece of stone or timber used to distribute weight or pressure as over a door frame. A copy is enclosed for convenience of the Examiner. This is consistent with the teaching of Ryan which would not in any way teach one skilled in the art to produce applicant’s plurality of grout color selecting cards as color is in no way a feature or consideration of Ryan. More specifically, Ryan teaches a long tape having portions which are severable to facilitate installation of European cabinetry hardware. Unlike applicant’s Claim 17, there is no plurality of grout color selecting cards having a first color band and a second color band with a number of the cards having the color of at least one of the first color band and second color band different from said colors of other said cards.

Not only is Ryan in a different environment and has a different structure with a different purpose, but there is no teaching or suggestion whatsoever as to how Ryan could be employed in achieving applicant's objective or, more specifically, providing a plurality of cards designed to facilitate color selection of grout through cards having different grout colors.

It is respectfully submitted that Claim 17 is patentable over Ryan.

Claim 18 recites the bands on the plurality of cards being perpendicular to each other.

Claim 22 recites the color bands on the plurality of cards being within the range of 100 to 179°.

Claim 23 also recites the plurality of bands.

As to Claims 18, 22-24 and 26, it is respectfully submitted that these claims are allowable on the basis of their dependency from independent Claim 17 and, in addition, to the recital of a plurality of cards which does not exist in the Ryan teaching.

Turning to Claims 19-21 and 25, which were rejected under Section 103(a), applicant's reference to the cards containing color identifying indicia. Claim 19 has been amended to clarify the fact that as stated in specification at Page 4, Lines 16 through 18, that such color identifying indicia "may be provided" in order to establish precise identification. It will be obvious to those skilled in the art that the providing of the same need not be mere printed matter, but rather could be formed by forming it within the card depositing material on top of the card or provided in any number of ways. It is respectfully submitted that there is nothing whatsoever in the Ryan reference to render obvious the feature of Claim 19, which is a preferred form of card in order to facilitate coordination of providing the proper grout once a color has been selected.

With respect to Claim 20, the width of the bands in the preferred range of about 1/32 to 3/4 of an inch has been recited. Further, with regard to grout widths, Ryan would teach one

skilled in the art that his measurement reference lines 22 and 46 have a dimension of 1.5 mm which equals 0.06 inches, while applicant's minimum disclosed grout width is 1/32 of an inch, which is 0.03 inches and preferably goes up to 3/4 of an inch. It is respectfully submitted that those skilled in the art would know that a 0.06-inch line would not present an effective approximation of grout thickness and would not permit effective color comparison. It will be appreciated that the structure of Ryan, which has as its teaching, a band width one half applicant's minimum as it is provided for a totally different purpose would not render obvious applicant's recital of Claim 20.

Dependent Claim 21 recites a preference of length, which is not taught or suggested by Ryan, as it provides an elongated flexible tape from which segments will be severed during the use in construction of European-style cabinetry and the width is determined in Ryan by the measurements to be provided.

Applicant does not assert that the features of Claim 25 independently contribute to patentability apart from the dependency from independent Claim 17.

It is respectfully submitted, therefore, that in addition to allowed Claims 1 through 16, Claims 17-25, as amended, are allowable. As the application would now appear to be in proper form for issuance of the Notice of Allowance, such action is respectfully requested at an early date.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Arnold B. Silverman", followed by a long horizontal flourish line.

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WEBSTER'S II

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Manufactured in the United States of America

(MARA)THON.] A long concise fund for charity.
krip'shan) n. Transcription of telescope or videotape for a teletypewriter.

n. An electromechanical type messages coded in electrical wires.

te'leu'te) n. [Gk. *teleute*, terminus. —*teleu'to'sporic* adj. —*teleu'to'sporia* n. [Back-formation by television.]

television: *tele-*, *tele-* + *vision*, images of moving and stationary und, as electromagnetic waves into visual images. 2. a. An electromagnetic waves and displays. b. The integrated audible and c waves received and converted receiving set. 3. a. The television as a communication medium, ision transmitter.

ER) * EX(CHANCE).] 1. A computerwriters connected to a tele- signals. 2. A message sent or ing, -ex-ces. To send (a message)

s, final < telos, end.] Directed or

n. [TELI(UM) + SPOR.] A thick-ists and smuts, from which the di.

o) [NLat. < Gk. *teleios*, complete h structure formed on the tissue and generating teliospores. —*te-*

tells. [ME *tellen* < OE *tellan*.] of: NARRATE. 2. To communicate words. 3. To make known to: To make known: REVEAL < tell ER < You never do what I tell ey're honest people. > 7. To dis- To say (a rosary). —vi. 1. To give ption. 2. To give evidence or indi- pact < In this business every mis- out and set apart, esp. aloud. —tell on. Informal. To tattle on.

2. A bank employee who receives nted to count votes in a legislative

nce or effect: STRIKING < a telling f special meaning: REVEALING < a /> —*tellingly* adv.

informs on another: TATTLETALE als information: SIGN. 3. A device ation, esp.: a. A time clock. b. A ship's rudder. c. A row of strips arm an approaching train of a low 2 or 2½ feet high, across the bot- s or squash court above which the

Of, relating to, or inhabiting the the earth: TERRESTRIAL. 2. var. of

or pertaining to the earth: TERRES-ning tellurium, esp. with valence 6. alline inorganic acid, H₂TeO₆, used

ary compound of tellurium.

telu'rian (-an) n. An instru-ment of the earth on its axis and ight and the seasons.

Symbol Te A brittle silvery-white stainless steel and lead, in ceramics, illuride, in thermoelectric devices; ht 127.60.

Lat. *tellus*, *tellur-*, earth. 1. Earth lurous >

(-tor) n. A surveying instrument that microwaves.

ss) adj. Of, pertaining to, or derived e 4.

er ēpet ēbe hw which lgt
ō paw, for oi noise ō took

telly (tél'ē) n., pl. -lies. Chiefly Brit. TELEVISION 2C.

tele- or tel- pref. [< Gk. *telos*, end.] End < telephase >

tele-ocentric (tél'ō-sén'trik, tél'ō-) adj. Of or relating to a chromo- some whose centromere is terminally located.

tele-oleicithal (tél'ō-lēs'ō-thal, tél'ō-) adj. Of or relating to an ovum in which the yolk is concentrated at one end.

telomere (tél'ō-mīr, tél'ō-) n. A centromere located in a terminal position on a chromosome.

telephase (tél'ō-fāz, tél'ō-) n. The final phase of mitosis, in which the chromosomes of daughter cells are grouped in new nuclei.

telpher (tél'fər) n. [TEL(E) + Gk. *pherein*, to carry.] 1. A light transportation car suspended from overhead wire cables, usu. propelled by an electric motor. 2. A transportation system using telphers. —vt. -phered, -phering, -phers. To transport by telpher.

telson (tél'son) n. [Gk., limit.] A terminal structure of the poste-rior section of certain arthropods, as the middle lobe of the tail fin of a lobster or shrimp or the sting of a scorpion.

Telstar (tél'stār) n. One of two privately financed, low-altitude, active communications satellites launched by the U.S. Government in 1962 and 1963, and used commercially to transmit television pic- tures and telephone messages.

Telugu (tél'ē-gōō) n., & adj. var. of TELEGU.

temblor (tém'blor, -blōr) n. [Sp. < *temblar*, to shake.] An earth- quake.

temerarious (tém'ō-rār'ē-ās) adj. [Lat. *temerarius* < *temere*, rashly.] Arrogantly or recklessly daring. —*temerari-ously* adv. —*temerari-ousness* n.

temerity (tā-mēr'ē-tē) n. [ME *temeryte* < Lat. *temeritas* < *temere*, rashly.] Excessive, arrogant self-confidence.

* *syns*: TEMERITY, CHUTZPAH, GALL, PRESUMPTION n. core meaning: excessive, arrogant self-confidence < had the temerity to come to dinner uninvited >

temp (tēmp) n. [Short for *temporary worker*.] Informal. A tempo-rary worker, as in an office.

tempeh (tēm'pā) n. [Indonesian *tempe*.] A high-protein food of Indonesian origin made from partially cooked fermented soybeans.

temper (tēm'pər) v. -pered, -pering, -pers. [ME *temperen* < OE *temperian* < Lat. *temperare*.] —vt. 1. To modify by the addition of an agent or quality: MODERATE < "temper its doctrinaire logic with a little practical wisdom" —Robert Houghwout Jackson> 2. To bring to a specified physical condition, as consistency, texture, or hard-ness, by or as if by blending, admixing, or kneading. 3. To harden, strengthen, or toughen (metal) by application of heat or by alternate heating and cooling. 4. a. To attune. b. Mus. To adjust (the pitch of an instrument) to a temperament. —vi. To be or become tempered.

—n. 1. A state of mind or emotions: DISPOSITION < an even tem- per> 2. Calmness of mind or emotions: COMPOSURE < tried not to lose my temper> 3. a. A tendency to become easily angry or upset < a quick temper> b. An outburst of rage < a fit of temper> 4. a. The state of being tempered. b. The degree of hardness and elasticity of a metal, chiefly steel, as a result of tempering. 5. An agent or substance added to something to alter it. 6. Obs. The charac-ter or constitution of a human being according to medieval physiolo- gy, as determined by the mixture within him of the four humors.

7. Archaic. A compromise between extremes: a middle course. —*tempera-bility* n. —*tempera-ble* adj. —*temperer* n.

tempera (tēm'pər-ə) n. [Ital. < *temperare*, to mingle < Lat.] 1. A painting medium in which pigment is mixed with water-soluble glu- tinous materials, as size or egg yolk. 2. Painting done with tempera.

temperament (tēm'prə-mənt, tēm'pər-ə) n. [ME < Lat. *temperamentum* < *temperare*, to temper.] 1. a. The manner of thinking, behaving, or reacting characteristic of a specific individual < a high- strung temperament> b. Obs. The distinguishing mental and physi- cal characteristics that established the constitution of a human being according to medieval physiology, caused by the dominance of one of the four humors. 2. Excessive irritability or sensitiveness. 3. Mus. Equal temperament.

temperamental (tēm'prə-mēn'tl, tēm'pər-ə) adj. 1. Relating to, caused by, or endowed with temperament or temper. 2. a. Overly sensitive or irritable: MOODY. b. Unpredictable in performance < a temperamental copy machine> —*temperamentally* adv.

temperance (tēm'pər-əns, tēm'prəns) n. 1. The quality or state of being temperate: moderation or self-restraint. 2. Total abstinence from alcoholic liquors.

temperate (tēm'pər-it, tēm'prīt) adj. [ME < Lat. *temperatus* < *temperare*, to temper.] 1. Exercising moderation and self-restraint. 2. Moderate: tempered < a temperate handling of the dis- pute> 3. Neither hot nor cold in climate: mild.

* *syns*: TEMPERATE, ABSTEMIOUS, ABSTENTIOUS, ABSTINENT, CONTINENT, SOBER adj. core meaning: exercising moderation and self-restraint in appetites and behavior < a temperate person who did nothing to excess> ant: intemperate

temperate Zone n. Either of two middle latitude zones of the earth, the North Temperate Zone and the South Temperate Zone, lying between 23½° and 66½° north and south.

tempera'ture (tēm'pər-ə-choōr, tēm'pər-) n. [Lat. *temperatura*, composition < *temperare*, to mix.] 1. a. Degree of hotness or cold-ness of a body or environment. b. A specific degree of hotness or coldness as indicated on or referred to a standard scale: a scalar quantity that is independent of the size of the system and that deter- mines the direction of heat flow between any two systems in ther- mal contact. 2. An abnormally high temperature usu. caused by illness: FEVER.

temperature gradient n. The rate of change of temperature with displacement in a given direction from a given reference point.

tempered (tēm'pərd) adj. 1. Having a specified temper or disposi- tion < hot-tempered> 2. Mus. Tuned to temperament. —Used of a scale, interval, semitone, or intonation. 3. Moderated by the admix- ture of another substance, quality, or factor < delivered a tempered admonishment> 4. Having the required degree of hardness or elas- ticity < tempered steel>

tempest (tēm'pəst) n. [ME < OFr. *tempeste* < Lat. *tempestas* < *tempus*, time.] 1. A violent windstorm, often accompanied by rain, snow, or hail. 2. Furious commotion: UPROAR. —vt. -pest-ed, -pest- ing, -pests. To disturb or agitate violently.

tempestuous (tēm'pēs'chōō-s) adj. [LLat. *tempestuosus* < *tempestas*, tempest.] 1. Relating to or characteristic of a tempest. 2. Tumultuous: stormy < a tempestuous relationship> —*tempes- tu-ously* adv. —*tempest-u-ousness* n.

tempi (tēm'pē) n. var. pl. of TEMPO.

templar (tēm'plər) n. [ME < AN *templar*, var. of OFr. *templier* < Med. Lat. *templarius* < Lat. *templum*, temple.] 1. A Knight Templar. 2. templar. Chiefly Brit. A lawyer or law student having chambers in the Temple in London.

temple also templet (tēm'plit) n. [Prob. < Fr. *templet*, dim. of OFr. *temple*, temple, device in a loom.] 1. A pattern or gauge, as a thin metal plate with a cut pattern, used as a guide in making some- thing accurately, as in woodworking. 2. A piece of stone or timber used to distribute weight or pressure, as over a door frame. 3. Biol. A molecule, as DNA, that serves as a model for the synthesis of a macromolecule, as RNA.

temple¹ (tēm'pəl) n. [ME, partly < OE *tempel*, and partly < OFr. *temple*, both < Lat. *templum*.] 1. A place or building dedicated to the worship or the presence of a deity. 2. Temple. Any of three successive buildings in ancient Jerusalem dedicated to the worship of Jehovah. 3. Informal. A synagogue. 4. Mormon Ch. A building in which the sacred ordinances are administered. 5. Something held to contain a divine presence. 6. The headquarters of a fraternal order, esp. that of the Knights Templar. 7. A place or building reserved for a special purpose < a temple of learning> < a temple of art>

8. Temple. Either of the two Inns of Court in London housing Eng- land's major law societies, and once used by the Knights Templar. temple² (tēm'pəl) n. [ME < OFr. < Lat. *templa*, pl. of *templum*, temple of the head.] The flat region on either side of the forehead. temple³ (tēm'pəl) n. [ME *tempylle* < OFr. *temple*, poss. < Lat. *templum*, small piece of wood.] A device in a loom that keeps the cloth stretched to the proper width during weaving.

templet (tēm'plet) n. var. of TEMPLATE.

tempo (tēm'pō) n., pl. -pos or -pi (-pē) [Ital. < Lat. *tempus*, time.] 1. Mus. Relative speed at which a composition is to be played, as indicated by a descriptive or metronomic direction to the performer. 2. A characteristic rate or rhythm of activity: PACE < "the tempo and the feeling of modern life" —Robert L. Heilbroner>

temporal¹ (tēm'pər-əl, tēm'prəl) adj. [ME < Lat. *temporalis* < *tempus*, time.] 1. Relating to, concerned with, or limited by time. 2. Relating to or concerned with worldly affairs. 3. Lasting briefly: EPHEMERAL < the temporal dreams of youth> 4. Civil, secular, or lay. 5. Expressing time < a temporal adverb> —*temporal-ly* adv.

temporal² (tēm'pər-əl, tēm'prəl) adj. [LLat. *temporalis* < Lat. *tempora*, pl. of *tempus*, temple.] Of, relating to, or near the temples of the skull.

temporal bone n. Either of two complex, three-part bones form- ing the sides and base of the skull.

temporal-ity (tēm'pər-āl'ē-tē) n., pl. -ties. 1. The state of being short-lived or temporary. 2. temporalities. Temporal possessions, esp. of the church or clergy.

tempor-ary (tēm'pər-rē-ē) adj. [Lat. *temporarius* < *tempus*, time.] Lasting, used, or enjoyed for a limited time: IMPERMANENT. —n., pl. -ies. Informal. One that serves for a limited time, esp. an office worker. —*temporari-ly* adv. —*temporari-ness* n.

temp-or-ize (tēm'pər-rīz) vi. -rized, -rizing, -rizes. [OFr. *temporiser*, to pass one's time < Med. Lat. *temporizare* < Lat. *tempus*, time.] 1. To act evasively in order to gain time, avoid argument, or postpone a decision. 2. a. To behave appropriately under the circum- stances. b. To yield to current conditions: COMPROMISE. —*temp'o- riza-tion* n.

tempt (tēmp't) vt. tempted, tempting, tempts. [ME *tempten* < OFr. *tempter* < Lat. *temptare*, to feel, try.] 1. To entice (someone) to commit an unwise or immoral act, esp. by a promise of reward. 2. To be inviting or attractive to < The fresh strawberries tempted me. > 3. To provoke or to risk provoking, as fate. 4. To incline or

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